

Buchanan

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February 21, 2025

VIA ECF

The Honorable John G. Koeltl
United States District Judge for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street – 14A
New York, New York 10007-1312

Re: Yipit, LLC d/b/a YipitData v. Emmett et al., Case No. 24-cv-07854 (JGK)

Dear Judge Koeltl:

This firm represents M Science and Michael Marrale in this case. I write in response to the letters sent by counsel for Alex Pinsky (Mr. Bortnick) and counsel for Yipit (Ms. Smolowe) on February 19, 2025 (Dkt. Nos. 120 and 121).

In his letter, Mr. Bortnick asks the Court to amend the caption given a settlement between Mr. Pinsky and Yipit. In Ms. Smolowe's letter, she states that Yipit has no objection so long as the Court approves Yipit and Pinsky's proposed Stipulated Judgment and Permanent Injunction (the "Proposed Stipulation"). Both Pinsky and Yipit posit that the Proposed Stipulation is before the Court as Docket No. 119. But the Proposed Stipulation is not properly before the Court. Rather, if Mr. Pinsky and Yipit want the Court to enter an order, they *must* file a motion. *See* Fed R. iv P. 7(b)(1) ("A request for a court order must be made by motion."). Of course, the purpose of this mandatory rule is that by filing a motion, the other parties to this case have the time to review, consider and, if appropriate, respond to the motion in the time allotted by the rules. M Science and Mr. Marrale request that opportunity and submit that the Court should not consider the Proposed Stipulation absent the filing of a proper motion.

Further, Pinsky's request to have the caption amended should not have been brought by letter-motion. SDNY Local Civil Rule 7.1 allows letter-motions only for "Applications for extensions or adjournments, applications for a premotion conference, and similar non-dispositive matters." Your honor's Individual Rules allow letter-motions only to the extent allowed by SDNY local rules. Again, M Science and Mr. Marrale would like to ensure they have the opportunity to consider and respond to the requests in counsel's letters as appropriate. For example, M Science notes that it has only recently been added to this case and has not even filed a responsive pleading yet. It may be that M Science files a crossclaim against Mr. Pinsky. As

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such, M Science submits that either entering a “final” judgment against Pinsky or removing him from the caption at this time is premature and may prejudice M Science.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'AS', with a long horizontal flourish extending to the right.

Andrew J. Shapren